

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANDRES GOMEZ,
Plaintiff,
v.
TURNBULL WINE CELLARS,
Defendant.

Case No. 22-cv-00533-VC

**ORDER LIFTING ORDER TO SHOW
CAUSE**

Re: Dkt. No. 17

1. When a “high-frequency” litigant asserts a California Unruh Act claim in federal court alongside an ADA claim, this will typically constitute an exceptional circumstance that justifies dismissal of the Unruh Act claim. *See Arroyo v. Rosas*, 19 F.4th 1202, 1211–14 (9th Cir. 2021); *Garcia v. Maciel*, 2022 WL 395316, at *2–5 (N.D. Cal. Feb. 9, 2022). However, such exceptional circumstances only exist where the plaintiff has filed a “construction-related accessibility claim.” *Arroyo*, 19 F.4th at 1206. The plaintiff’s claim in this case—alleging that a website is inaccessible—is not a construction-related accessibility claim. There are therefore no exceptional circumstances that would justify dismissal of the Unruh Act claim under 28 U.S.C. § 1367(c)(4).

2. Given the low bar required to establish that a plaintiff has standing to seek injunctive relief in ADA challenges to a website’s alleged inaccessibility, there is no basis (at this time) to dismiss the claim for lack of subject-matter jurisdiction. Additionally, the Court does not think that jurisdictional discovery would be fruitful (although the defendant may file a motion requesting jurisdictional discovery if it can articulate a basis for doing so).

3. The Court is skeptical that the plaintiff has stated a claim under the ADA, as the

complaint does not explain how the website's alleged shortcomings prevented the plaintiff from visiting the defendant's physical location or accessing its goods or services. *See Gomez v. Rang Dong Joint Stock Co.*, 2022 WL 2254995, at *1 (N.D. Cal. June 1, 2022). However, the defendant has filed an answer, so the issue is left to be addressed at summary judgment or on a motion for judgment on the pleadings.

4. A status report is due by October 18, 2022.

IT IS SO ORDERED.

Dated: July 18, 2022



VINCE CHHABRIA
United States District Judge